

Hon. James Larson (Ret.)  
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Special Master

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JEFF POKORNY, et al.,

Plaintiffs,

vs.

QUIXTAR, INC., et al.,

Defendants.

CASE NO. C 07-00201 SC

**SPECIAL MASTER'S REPORT AND  
REQUEST FOR FINAL ORDER  
APPROVING SECOND SUBMISSION OF  
OBJECTIONS TO HARDSHIP AWARDS**

In a document filed May 6, 2014, Plaintiffs submitted fifteen additional objections to the Special Master's report and recommended hardship awards. These fifteen objections were apparently timely submitted, but the Claims Administrator misplaced them, and they were not submitted with the 28 objections previously submitted and adjudicated by the Court in its Order of March 31, 2014.

Herein are my comments to the second submission of objections for review by the Court. The comments are organized according to the Plaintiffs' Second Submission to the Court. We agree with counsel's summary. Again, please note that we have not denied review or reconsideration of any objection on grounds of late filing. In addition, except where noted, we agree with the Plaintiffs' submission.

1           **1.       Comments on the Objections**

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3           **A.       Peterson and Gilman**

4           Both objectors were awarded the \$10,000 maximum. Peterson objects that his award  
5 should be \$55,499, and Gilman objects that this is not a “proportionate” amount to receive. Both  
6 objections should be denied. The Settlement Agreement provides for a maximum of \$10,000  
7 recovery. It is not possible to award more than that under the terms of the Settlement  
8 Agreement.

9  
10          **B.       Anderson**

11          These Claimants were awarded \$3,501 less the deduction for BSM. Mr. Anderson  
12 objects that he should receive the \$10,000 maximum, because he has over \$64,000 of Quixtar  
13 products left unsold and stored in his garage. However, he has not provided any additional tax  
14 documents or other reliable information documenting this loss. His “new inventory” sheet is  
15 insufficient. Accordingly, his objection should be denied.

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17          **C.       Barrera**

18          These Claimants submit a one-paragraph objection stating that they “lost a lot of money”  
19 invested into his Quixtar business, and it is “unjust” that “he” not be awarded additional  
20 compensation. He submits no additional documentation and he has already received favorable  
21 treatment. Accordingly, his objection should be denied.

22  
23          **D.       Jawny**

24          The Claimant appears not to understand that the Settlement Agreement provides for an  
25 award of 20% of the loss. He has already received favorable consideration, in that his previous  
26 award included losses outside the settlement period, pursuant to agreement of counsel.  
27 Accordingly, this objection should be denied.

1           **E.     Cornelius**

2           This Claimant's original submission did not include any tax or bankruptcy documents,  
3 only some invoices for items he purchased. He does not submit any further documentation in  
4 support of his objection. He seeks an increase to \$4,000, stating that he is unable to provide  
5 additional documents due to his medical condition. In the absence of any new documentation,  
6 this objection should be denied.

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8           **F.     Titus**

9           Mr. Titus states he is "not objecting" but seeks a recalculation and explanation of his  
10 award. In fact, it appears that his losses for 1999, which were outside the period, but includable  
11 pursuant to agreement with counsel, were not included. Thus his total loss was \$43,929, 20% of  
12 which equals \$8,786. The actual amount allocated previously was \$7,544. Accordingly, Mr.  
13 Titus is entitled to an additional allocation of \$1,242.

14  
15           **G.     Gillespie and Ducham**

16           These Claimants were awarded \$2,000 on the basis of filing for bankruptcy, which  
17 presumes at least a \$10,000 loss. Ms. Gillespie claims this amount is an "embarrassment" and  
18 she should receive a "much higher amount," because losing her house and her credit was  
19 "devastating." However, she submits no additional documentation, and the terms of the  
20 Settlement Agreement do not permit additional recovery on the stated grounds.

21           Mr. Ducham objects and states that he lost his documentation in a house fire and asserts  
22 that he filed bankruptcy for \$75,969.49 in debts after "losing his home, savings and hope of a  
23 secure retirement." In the absence of additional documentation, both of these objections should  
24 be denied.

25  
26           **H.     Skrdla**

27           The Skrdlas submitted their bankruptcy filing and tax return summaries for 2008 and  
28 2009. They were previously awarded \$5,992 on the basis of these losses without deducting their

1 gain for the year 2009. They claim additional losses of \$50,000, but fail to submit any new  
2 documentation. Accordingly, the objection should be denied.

3  
4 **I. Howerter**

5 These Claimants were previously awarded \$6,902. They seek the maximum of \$10,000.  
6 In reviewing their claim, we found additional tax information for 2003 that was submitted after  
7 the claim was initially reviewed. Adding this amount results in a total loss of \$48,154, 20% of  
8 which is \$9,631. Accordingly, the Howerters should receive an additional allocation of \$2,729.

9  
10 **J. Hamid**

11 These Claimants submitted additional Schedule C losses for the years 2003 through 2007,  
12 which bring their total loss up to \$46,978, 20% of which is \$9,396. The original amount  
13 allocated was \$4,625. Accordingly, this objection should be approved, and an additional  
14 allocation of \$4,771 awarded to these Claimants.

15  
16 **K. Guzman**

17 This Claimant submitted additional documentation confirming a total loss of \$18,610,  
18 20% of which is \$3,722. He should receive an additional allocation of \$1,098. His objection  
19 should be approved.

20  
21 **L. Johnson**

22 Ms. Johnson claimed losses from 1993 through 2008. She submitted her husband's  
23 Schedule C tax forms for 2001 through 2008 with her original claim. She received 20% of the  
24 total loss for those years. She objects to that award as "an insult to me, the Court, and justice."  
25 However, she has failed to submit any additional documentation to confirm the losses from 1993  
26 through 2000. Her spreadsheets which are based on estimates, are insufficient. This objection  
27 should be denied.  
28

1           **M. Davis**

2           Ms. Davis seeks an “explanation” of her award of \$4,213, which is 20% of her  
3 documented loss of \$21,067. She apparently fails to note that the Settlement Agreement  
4 provides for a maximum recovery of 20% of her losses. In the absence of any additional  
5 documentation, this objection should be denied.

6  
7                                   **CONCLUSION**

8           All of the above recommendations are based on our review de novo of all of the  
9 information submitted regarding these claims. A spreadsheet summarizing the results of this  
10 review is attached. This information has been submitted and approved by Plaintiffs’ counsel.

11           If the Court agrees with these comments, please issue an Order accordingly.

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14           Respectfully submitted,

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16   May 23, 2014

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18                                   Hon. James Larson (Ret.),  
19                                   Special Master  
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## Attachment 1

Last	First	Notes	Appeal Status	Appeal Allocation
Peterson	Joel	Claimant received maximum allocation of \$10K	Denied	\$0
Gilman	Jess and Rhonda	Claimant received maximum allocation of \$10K	Denied	\$0
Anderson	Luis and Patricia	Narrative only no new documentation	Denied	\$0
Barrera	Rocio	Narrative only no new documentation	Denied	\$0
Jawny	George and Janis	Narrative only no new documentation	Denied	\$0
Cornelius	Winford Lee and Lisa	Narrative only no new documentation	Denied	\$0
Titus	Aaron	1999 loss not originally included. Total loss \$43,929. 20% equals \$8,786. Amount allocated \$7,544. Balance allocation is \$1,242.	Approved	\$1,242
Gillespie	Cheryl	Narrative only no new documentation	Denied	\$0
Ducham	David	Narrative only no new documentation	Denied	\$0
Skdrla	Mike and Terry	Narrative only no new documentation	Denied	\$0
Howerter	Bradley	Claimant submitted additional documentation confirming loss of \$13,641 in 2003. Total loss \$48,154, 20% = \$9,631. Balance allocation \$2,729	Approved	\$2,729
Hamid	Tawfique and Faria	Claimant submitted additional documentation confirming total loss of \$46,978. 20%=\$9,396. Amount allocated \$4625. Balance allocation is \$4,771	Approved	\$4,771
Guzman	Tom	Claimant Submitted additional documentation confirming total loss of \$18,610. 20%=\$3,722. Balance allocation is \$1,098	Approved	\$1,098
Johnson	Danice	Narrative only no new documentation	Denied	\$0
Davis	Nancy	Narrative only no new documentation. Claimant allocated 20% of total loss.	Denied	\$0